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Attorneys for Plaintiff Modavox, Inc., a Delaware Corporation

**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA**

MODAVOX, INC., a Delaware
corporation,

Plaintiff,

v.

AOL LLC, a Delaware Limited
Liability Company; Time Warner,
Inc., a Delaware Corporation;
Platform-A, Inc., a Maryland
Corporation;

Defendants.

CASE NO. CV08-05914 SJO PJWx
(The Hon. S. James Otero)

**NOTICE OF SCHEDULING
CONFERENCE**

Filed: September 10, 2008
Trial: None Set

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1 TO THE COURT, ALL PARTIES AND THEIR ATTORNEYS OF RECORD:

2 PLEASE TAKE NOTICE that the Court has set a Scheduling Conference
3 for Monday, March 30, 2009 at 8:30 a.m. before District Judge S. James Otero in
4 Courtroom 880, 255 East Temple Street, Los Angeles, CA 90012. Please see the
5 attached civil minutes for further details.
6

7 March 2, 2009

SHAUB & WILLIAMS, LLP

10 By: s/David R. Shaub /s
11 David R. Shaub,
12 Lisbeth Bosshart,
13 Stephen D. Morgan,
14 Attorneys for Plaintiff,
15 MODAVOX, INC.
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**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA**

CIVIL MINUTES - GENERAL

CASE NO.: CV 08-05914 SJO (PJWx)

DATE: March 2, 2009

TITLE: Modavox, Inc. v. AOL LLC

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PRESENT: THE HONORABLE S. JAMES OTERO, UNITED STATES DISTRICT JUDGE

Victor Paul Cruz
Courtroom Clerk

Not Present
Court Reporter

COUNSEL PRESENT FOR PLAINTIFF(S):

COUNSEL PRESENT FOR DEFENDANT(S):

Not Present

Not Present

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PROCEEDINGS (IN CHAMBERS):

Counsel are hereby notified that a Scheduling Conference has been set for **Monday, March 30, 2009 at 8:30 a.m.** before District Judge S. James Otero in Courtroom 880, 255 East Temple Street, Los Angeles, California 90012.

Counsel are directed to comply with Rule 26(f) of the Federal Rules of Civil Procedure in a timely fashion and to file a Joint Rule 26(f) report on or before **March 16, 2009**. The parties' report shall, in addition to addressing the matters specified in Rule 26(f), set forth their views regarding: (1) an appropriate last date for the completion of discovery and the hearing of motions, a date for a final pretrial conference and a trial date; (2) whether discovery should be conducted in phases or otherwise ordered or limited; (3) a preliminary estimate of the time required for trial; (4) efforts made to settle or resolve the case to date, and the parties' views as to an appropriate plan for maximizing settlement prospects; (5) whether the case is complex or requires a reference to the procedures set forth in the Manual on Complex Litigation; (6) the likelihood of the appearance of additional parties; (7) what motions the parties are likely to make that may be dispositive or partially dispositive; (8) any unusual legal issues presented by the case; and (9) proposals regarding severance, bifurcation or other ordering of proof.

In order to assist the parties in the setting of dates for the Scheduling Conference, the Court has included a schedule form for pretrial dates. The schedule should be completed by counsel and submitted in conjunction with their Rule 26(f) report.

If this case is part of the ADR program, counsel of record must confer and jointly complete the ADR Pilot Program Questionnaire, which was provided to plaintiff's counsel at the time of filing. Counsel is directed to file the Questionnaire concurrently with the Joint Rule 26(f) Report.

Plaintiff's counsel is directed to give notice of the Scheduling Conference to all parties that have appeared in this action, and is directed to give notice of the Scheduling Conference immediately to each party that makes an initial appearance in the action after this date.

CV 08-5914 SJO (PJWx)
Modavox, Inc. v. AOL LLC

DISTRICT JUDGE S. JAMES OTERO

SCHEDULE OF PRETRIAL DATES

Matter	Time	Day(s) or Weeks Before Trial	Plaintiff's Request	Defendant's Request	Court Order
Trial Date (Jury) Estimated Length: ____ Days	9:00 a.m.				
Final Pretrial Conference; Discuss Previously-Filed Motions in Limine; File Agreed-Upon Set of Jury Instructions and Verdict Forms and Joint Statement re Disputed Instructions and Verdict Forms; File Proposed <i>Voir Dire</i> Questions and Agreed-To Statement of Case; File Witness List, Exhibit List, and Trial Brief	9:00 a.m.	8 days before trial			
Last Day for Hearing Motions		45 days before trial			
Discovery Cut-Off		90 days before trial			

ADDITIONAL MATTERS TO BE DETERMINED AT SCHEDULING CONFERENCE

L.R. 16-14 Settlement Choice: (1) CT/USMJ (2) Atty (3) Outside ADR (4) Trial Court

Last Day to Conduct Settlement Conference		3 weeks prior to pretrial conference			
Last Day to Amend Pleadings or Add Parties		within 30 days from scheduling conference			

Case Name: Modavox, Inc v. AOL LLC

Case Number: CV 08-05914 SJO (PJWx)

PROOF OF SERVICE

I, Antje Nicken, am employed in the County of Los Angeles, State of California. I am over the age of 18 years and not a party to the within action. My business address is 12121 Wilshire Boulevard, Suite 205, Los Angeles, CA 90025.

On **March 2, 2009**, I served the foregoing **NOTICE OF SCHEDULING ORDER** on the following interested parties in this action:

Mark D. Litvack
Reed Smith LLP
355 South Grand Ave., Suite 2900
Los Angeles, CA 90071
E-mail: mlitvack@reedsmith.com

David Rosenbaum
Rosenbaum & Silvert PC
650 Dundee Road, Suite 380
Northbrook, IL 60062
E-mail: drosenbaum@biopatentlaw.com

VIA MAIL

- ☐ By placing a true copy thereof enclosed in a sealed envelope(s), addressed as above, and placing each for collection and mailing on that date following ordinary business practices. I am readily familiar with my firm's business practice of collection and processing of correspondence for mailing with the United States Postal Service and correspondence placed for collection and mailing would be deposited with the United States Postal Service at Los Angeles, California, with postage thereon fully prepaid, that same day in the ordinary course of business.
- ☐ By placing a true copy thereof enclosed in a sealed envelope(s), addressed as above, and depositing each envelope(s), with postage thereon fully prepaid, in the mail at Los Angeles, California.

VIA OVERNIGHT MAIL/COURIER

- ☐ By placing a true copy thereof enclosed in a sealed envelope(s), addressed as above, and placing each for collection by overnight mail service or overnight courier service. I am readily familiar with my firm's business practice of collection and processing of

correspondence for overnight mail or overnight courier service, and any correspondence placed for collection for overnight delivery would, in the ordinary course of business, be delivered to an authorized courier or driver authorized by the overnight mail carrier to receive documents, with delivery fees paid or provided for, that same day, for delivery on the following business day.

VIA E-MAIL

- ☒ By sending via electronic mail delivery to the above listed e-mail address. I am readily familiar with my firm's business practice of processing electronic mail correspondence and such mail is sent out in the ordinary course of business.


PROOF OF SERVICE VIA FACSIMILE

- ☐ By arranging for facsimile transmission from facsimile number (310) 826-8042 to the above listed facsimile number(s) prior to 6:00 p.m. I am readily familiar with my firm's business practice of collection and processing of correspondence via facsimile transmission(s) and any such correspondence would be transmitted via facsimile to the designated numbers in the ordinary course of business. The facsimile transmission(s) was reported as complete and without error.

PROOF OF SERVICE VIA HAND DELIVERY

- ☐ (BY PERSONAL SERVICE) I caused such envelope to be hand delivered to the offices of the addressee.
- ☐ (BY PERSONAL SERVICE) I caused such envelope to be hand delivered to the addressee.
- ☐ (State) I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.
- ☒ (Federal) I declare under penalty of perjury that the foregoing is true and correct, and that I am employed in the office of a member *pro hac vice* of the bar of this Court at whose direction the service was made.

Executed on March 2, 2009



Antje Nicken